

APPENDIX.

EXHIBIT A.

Chapter 405, Laws of Minnesota 1933.

(Title of the Act)

"An act raising revenues, imposing income taxes and franchise or privilege taxes measured by income, providing certain exemptions and exceptions from such taxes, providing for the assessment, levy and collection thereof, and the distribution of the proceeds therefrom, appropriating money for the administration thereof, providing penalties for violations thereof and defining certain crimes in connection therewith and imposing penalties therefor."

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Article II. Imposition of Taxes.

"Sec. 2. Income Tax Imposed.—There is hereby imposed on every domestic and foreign corporation an annual tax for the privilege of existing as a corporation or of transacting any local business within this state during any part of its taxable year, measured by its taxable net income for such year, computed in the manner and at the rates hereinafter provided."

Sec. 3. (a) There is hereby imposed an annual tax for each taxable year upon the taxable net income for such year of every taxpayer specified in sub-section (b) hereof, computed in the manner and at the rates hereinafter provided.

(b) The tax imposed by sub-section (a) shall apply in the case of a domestic and foreign corporation whose business within this state during any taxable year consists exclusively of interstate commerce; to resident and non-resident individuals; to the estates of decedents dying domiciled within or without this state; to trusts (except so far as these are taxable as corporations) however created by residents or non-residents or by domestic or foreign corporations; provided that no non-resident individual shall be taxed on his income from compensation for labor or personal service within this state during any taxable year unless he shall have been engaged

in work within this state for more than 150 working days during such taxable year.
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"Sec. 5. Exemptions from Act.—The following corporations and organizations shall be exempted from taxation under this Act:

- (a) National and state banks.
- (b) Corporations engaged in the business of mining or producing iron ore; but if any such corporation engages in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty (as defined in Mason's Minnesota Statutes of 1937, Section 2392-2) shall not be considered as income from the business of mining or producing iron ore within the meaning of this section.
- (c) Insurance companies, however, or wherever organized, and regardless of the risks insured against.
- (d) Fraternal beneficiary associations wherever organized, and public department relief associations of public employees of this State or of any of its political subdivisions.
- (e) Co-operative or mutual rural telephone associations.
- (f) Corporations engaged in the business of loaning money to home builders for home building purposes, but if any such corporation is engaged in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or other business or activity.
- (g) Labor, agricultural and horticultural organizations, no part of the net income of which inures to the benefit of any private member, stockholder, or individual.

(h) Farmers, fruit growers, and like organizations organized and operated as sales agents for the purpose of marketing products of members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity or value of produce furnished by them; and farmers' co-operative associations, however organized, so far as engaged in marketing farm products, or in buying and selling farm products and supplies without profit, and co-operative associations organized under the laws of this state in good faith and not for the purpose or with the intent of evading the tax hereby imposed.

(i) Corporations operating or conducting public burying grounds, public school houses, public hospitals, academies, colleges, universities, seminaries of learning, churches, houses of worship, and institutions of purely public charity, no part of the net income of which inures to the benefit of any private member, stockholder, or individual.

(j) Corporations organized for exclusively scientific, literary or artistic purposes, no part of the net income of which inures to the benefit of any private member, stockholder, or individual.

(k) Business leagues and commercial clubs, not organized for profit and no part of the net income of which inures to the benefit of any private member, stockholder or individual.

(l) Clubs organized and operated exclusively for pleasure, recreation or other nonproftable purposes, no part of the net income of which inures to the benefit of any private member, stockholder or individual;

(m) Any corporation all the stock of which is owned by the United States or which may be exempt from a state franchise or income tax by federal law.

(n) The State of Minnesota and all its political or governmental subdivisions, municipalities, agencies, or instrumentalities, whether engaged in the discharge of governmental or proprietary functions."

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Sec. 8. The tax for the first taxable year in the case of taxpayers taxable under Section 2 whose taxable year ended prior to the date on which this Act takes effect shall be a tax directly on its taxable net income instead of on the exercise of the privileges specified in said Section during such first taxable year."

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Article III. Computation of Net Income.

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"Sec. 11. What is Gross Income.—The term "gross income" shall include every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services, whatsoever; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealings in, property; income derived from the transaction of any trade or business; and income derived from any source whatever. Items of gross income includible within said definition shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by Section 9, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income during any taxable year, be treated as gross income for the year in which the transfer occurs, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received.

Sec. 12. Exemptions from Gross Income.—The following items shall not be included in gross income:

(a) The value of property acquired by gift, devise, bequest or inheritance, but the income from such property shall be included in gross income; the income received under a gift, devise, bequest or inheritance of a right to receive income shall also be included in gross income.

(b) Amounts received under a life insurance contract payable by reason of the death of the insured, whether in a single sum or in installments; but the interest accruing after December 31, 1932, and paid by the insurer on any such amounts held by it after the death of the insured shall be included in gross income.

(c) Amounts received, other than those specified in subdivision (b), under a life insurance, endowment, or annuity contract; but if such amounts when added to the amounts received under such contract before the taxable year (after deducting from the aggregate of amounts received such proportion thereof as is represented by interest accrued prior to January 1, 1933) exceed the aggregate premiums or consideration paid, whether or not paid during the taxable year, then the excess shall be included in gross income. The amount which a transferee for a valuable consideration of any such contract, or interest therein, shall be permitted to exclude from his gross income shall be the actual value of the consideration paid by him plus the amount of the premiums and other sums subsequently paid by him thereunder.

(d) Amounts received as compensation for personal injuries or sickness by the injured or sick taxpayer, whether received under accident or health insurance contracts, workmen's compensation acts, any plan maintained by employers for such purpose, or by way of damages received in any suit or by agreement; also amounts received as compensation for the death of any member of the taxpayer's family, whether received under insurance contracts, workmen's compensation acts, any plan maintained by employers for such purposes, or by way of damages received in a suit or by agreement; and amounts received under any arrangement entered into by the taxpayer to provide a fund specifically intended to defray the funeral expenses of himself or any member of his family. The words "compensation" and "damages" as used in this subdivision shall include reimbursement for medical, hospital and funeral expenses in connection with such sickness, injury or death.

(e) Amounts received by any person from the United States or the State of Minnesota by way of a pension, family allotment, or other similar allowance.

(f) Interest upon obligations of the State of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities.

(g) Income received from the United States, its possessions, its agencies, or its instrumentalities, so far as immune from state taxation under federal law.

(h) The rental value of the premises occupied by the taxpayer as his home, or for his business, except where the occupancy by such taxpayer of such premises for such purposes constitute in whole or in part the consideration received by him in connection with a transaction such that, had such consideration been received thereunder in cash or other property, the amount thereof would have been required, either in whole or in part, to be included in his gross income.

(i) The value of food and goods produced by the taxpayer and consumed or used by his immediate family.

(j) Amounts deducted from the wages or salaries of employees by employers under a voluntary or compulsory plan of unemployment insurance shall not be included in the gross income of such employees.

(k) The amounts distributed by co-operative buying, selling or producing associations, however organized, as patronage dividends shall not be included in the gross income of such associations.

(l) Subdivisions (c), (d), (i) and (j) shall not apply to corporations, and subdivision (g) shall not apply to corporations taxable under Section 2, except so far as taxable under Section 8."

Sec. 27. Personal credits on income. The taxes imposed by this Act shall be on, or measured by, as

the case may be, the taxable net income less the following credits against it:

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(e) A credit of \$1,000 in the case of each corporation.

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Article IV. Provisions Relating to Special Cases.

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"Sec. 32. Special Taxes for Corporation.—(a) If a corporation is formed or availed of for the purpose of splitting up the income of its stockholders, or of the holders of a majority of its shares, with an aim to reducing the total amount of their taxes under this Act, there shall be imposed upon it a special tax, in addition to those otherwise imposed by this Act, of ten per cent of its taxable net income assignable to this state less credits against net income under Section 27.

(b) When any corporation liable to taxation under this Act conducts its business in such a manner as either directly or indirectly to benefit its members or stockholders or any person or corporation interested in such business or to reduce the income attributable to this state by selling the commodities or services in which it deals at less than the fair price which might be obtained therefor, or buying such commodities or services at more than the fair price for which they might have been obtained, or when any corporation, a substantial portion of whose shares is owned, directly or indirectly, by another corporation, deals in the commodities or services of the latter corporation in such a manner as to create a loss or improper net income or to reduce the taxable net income attributable to this state, the Commission may determine the amount of its income so as to reflect what would have been its reasonable taxable net income but for the arrangements causing the understatement of its taxable net income or the overstatement of its losses, having regard to the fair profits which, but for any agreement, arrangement, or understanding might have been or could have been obtained from such business.

(c) Whenever a corporation which is required to file an income tax return is affiliated with or related

to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations, or has its income regulated through contract or other arrangement, the Tax Commission may permit or require such consolidated statements as in its opinion are necessary in order to determine the taxable net income received by any one of the affiliated or related corporations. If 90% of all the voting stock of two or more corporations is owned by or under the legally enforceable control of the same interests the Commission may impose the tax as though the combined entire taxable net income was that of one corporation except that the credit provided by Section 27 (e) shall be allowed for each corporation; but inter-company dividends shall in that event be excluded in computing taxable net income."

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Approved April 21, 1933.

EXHIBIT B

Act of Congress of February 28, 1920 "Transportation Act 1920", 41 Stat. 488, Ch. 91, Sec. 422, Title 49 U. S. C. A. Section 15a:

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Subsection 5. Amounts received by carriers in excess of fair return payable to United States.—Inasmuch as it is impossible (without regulation and control in the interest of the commerce of the United States considered as a whole) to establish uniform rates upon competitive traffic which will adequately sustain all the carriers which are engaged in such traffic and which are indispensable to the communities to which they render the service of transportation, without enabling some of such carriers to receive a net railway operating income substantially and unreasonably in excess of a fair return upon the value of their railway property held for and used in the service of transportation, it is declared that any carrier which receives such an income so in excess of a fair return, shall hold such part of the excess, as hereinafter prescribed, as trustee for, and shall pay it to the United States.

Subsection 6. Disposition of amounts received in excess of 6 per centum.—If, under the provisions of this section, any carrier received for any year a net railway operating income in excess of 6 per centum of the value of the railway property held for and used by it in the service of transportation, one-half of such excess shall be placed in a reserve fund established and maintained by such carrier, and the remaining one-half thereof shall, within the first four months following the close of the period for which such computation is made, be recoverable by and paid to the commission for the purpose of establishing and maintaining a general railroad contingent fund as hereinafter described. For the purposes of this paragraph the value of the railway property and the net railway operating income of a group of carriers, which the commission finds are under common control and management and are operated as a single system, shall be computed for the system as a whole irrespective of the separate ownership and accounting returns of the various parts of such system. The value of such railway property shall be determined by the commission in the manner provided in paragraph (4).

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Subsection 10. General railroad contingent fund, use and disposition. — The general railroad contingent fund so to be recoverable by and paid to the commission and all accretions thereof shall be a revolving fund and shall be administered by the commission. It shall be used by the commission in furtherance of the public interest in railways transportation either by making loans to carriers to meet expenditures for capital account or to refund maturing securities originally issued for capital account or by purchasing transportation equipment and facilities and leasing the same to carriers, as hereinafter provided. Any moneys in the fund not so employed shall be invested in obligations of the United States or deposited in authorized depositories of the United States subject to the rules promulgated from time to time by the Secretary of the Treasury relating to Government deposits."

EXHIBIT C.

Act of Congress of June 16, 1933 "Emergency Railroad Transportation Act, 1933", 48 Stat. 220, Ch. 91, Tit. II, Sec. 206, Title 49 U. S. C. A., Section 15 b:

"Sec. 15b. Collection of excess income discontinued; general railroad contingent fund liquidated; distribution of moneys; computation of tax liabilities."

"(a) All moneys which were recoverable by and payable to the Interstate Commerce Commission, under paragraph (6) of section 15a of this chapter, as in force prior to June 16, 1933, shall cease to be so recoverable and payable; and all proceedings pending for the recovery of any such moneys shall be terminated. The general railroad contingent fund established under such section shall be liquidated and the Secretary of the Treasury shall distribute the moneys in such fund among the carriers which have made payments under such section, so that each such carrier shall receive an amount bearing the same ratio to the total amount in such fund that the total of amounts paid under such section by such carriers bears to the total of amounts paid under such section by all carriers; except that if the total amount in such fund exceeds the total of amounts paid under such section by all carriers such excess shall be distributed among such carriers upon the basis of the average rate of earnings (as determined by the Secretary of the Treasury) on the investment of the moneys in such fund and differences in dates of payments by such carriers."

"(b) * * *. All distributions made to carriers in accordance with subdivision (a) of this section shall be included in the gross income of the carriers for the taxable period in which this section is enacted. * * *".